

III. REMARKS

Status of the Claims

Claims 1,10, and 16 are amended to clarify the distinguishing features of the this invention. Claims 1-19 are presented for further consideration.

Summary of the Office Action

Claims 1-3, 5-14, and 16-19, stand rejected under 35USC103(a) on the basis of the cited reference Wang, U.S. Patent No. 5,917,913 in view of the cited reference Ramaswamy, et al, U.S. Patent No. 6,832,082. Claims 2-4, 1and 15 stand rejected under 35USC103(a) on the basis of the cited reference Wang, U.S. Patent No. 5,917,913 in view of the cited reference Ramaswamy, and further in view of the cited reference McGregor, et al, U.S. Patent No. 5,625,669. The Examiner is respectfully requested to reconsider his rejection in view of the above amendments and the following remarks.

As described in the claims as amended, the device of this application provides a means for establishing a communication connection between a point of service device and a portable communication device for the purpose of performing a transaction. In the device of this invention there are two independent communications set up, one that is used for transmitting transaction information and another (the identification means) that is used for transmitting identification information relating to the particular communication device. The identification means is a separate link and may be as simple as a bar code readable by the point of sale device. The identification means enables the communication connection for transmitting a transaction. The cited references either alone or in combination fail to show such a system.

Discussion of the Cited Reference

The Examiner again relies on the reference Wang as primary support for the rejection based on obviousness.

Wang discloses a system for approving a transaction request between an electronic transaction system 202 (e.g. an ATM) and a portable electronic authorization device 200 (PEAD). A path 206 is set up between port 204 of ATM 202 and PEAD 200. Communication path 206 can be infrared or any other type of communication link. This is the only communication link. A transaction is initiated by a request from ATM 202. A response indicating approval or rejection of the request is sent from PEAD 200 to ATM 202 via path 212 to port 204. The response includes the users identification data (see column 4, lines 47-48. There is only one communication link. There is no independent means for transferring identifying information. The Examiner has acknowledged this distinguishing feature.

However, the Examiner still maintains that the user identification data of Wang is used to establish the communication connection between PEAD 200 and ATM 202. There is no support in the reference, for this position. The cited excerpt, at column 4, lines 41-55 indicates an approval message is sent from PEAD 200 with the user's identification data to proceed with a transaction. It does teach that the communication link is established by the transfer of the identification data. The identification means of the subject application includes an independent link that is used to establish the separate communication connection for a transaction.

The cited passage at column 4, lines 4-55 of Wang merely confirms this. Particularly, column 4, lines 44-50 states:

"...If the user approves the transaction, e.g., a purchase of an item for a given amount of money, the user may then signify his approval by activating a switch 210 on PEAD 200, which causes an approval message to be created with the user's identification data, encrypted and sent back to the requesting device 202 via path 212."

This passage describes sending an approval message from the PEAD to the ATM in order to approve a transaction requested by the ATM. There is no suggestion here or anywhere else in Wang that this approval message establishes any further communication or additional connection between the ATM and PEAD. The Examiner has not addressed this issue in response to Applicant's arguments, except to repeat the mistaken conclusion indicated above. Applicant requests that the Examiner indicate the specific basis in the above excerpt for his position.

In order to remedy the deficiencies in the disclosure of the reference Wang, the Examiner has cited new reference Ramaswamy et al. The abstract of Ramaswamy provides a succinct description of the teaching of this reference, as follows:

"A wireless telephone system, having one or more wireless handsets and a base unit. Each handset has a handset transceiver, and the base unit has a base transceiver and a handset docking station, which has a wired interface. The base unit digitally communicates over an RF channel with a handset via its handset transceiver only if the handset has previously been initialized by the base unit. The handset is initialized via the wired interface when it is physically docked in the docking station."

Ramaswamy still does not teach using information provided by a separate identification means to establish a connection between the wireless handset and the base unit. According to Ramaswamy, the base unit initiates the parameters (a security code, a slot number and a scrambler seed-see column 3, lines 55-57) to use within an existing communication channel or connection. This is clear for example from column 2, lines 54 to column 3, line 15 of Ramaswamy.

In contrast, the present invention is concerned with establishing the connection in the first place. That is, in the present invention, information is provided identifying the device with which to connect. If the identification was not obtained, then the second device (e.g. the point-of-sale device) would not even know which portable device to

contact. The present invention is concerned with establishing a connection, not establishing parameters or authenticating a device.

Therefore, it can be seen that neither Wang nor Ramaswamy discloses the feature of using a separate identification means to establish a connection between a second device and a portable communications device. The systems of the cited art do not solve the problem of distinguishing portable devices in close proximity and thereby identifying the correct portable device with which to establish a connection for a particular transaction. There is no mention of the problem to which this application is directed and therefore no motivation in the cited references for providing the solution as described herein.

Furthermore, Applicant submits that it would not be obvious to combine Wang and Ramaswamy in the manner suggested, again because there is no motivation to do so, The Examiner has argued that the combination would be obvious **"to ensure that the communication between the two parties is unique as taught by Ramaswamy."** However, the approval message of Wang already contained an identification of the PEAD (e.g. column 4, lines 44-50), so there is would be no reason to consider introducing a separate feature from Ramaswamy for that purpose.

The Issue of Obviousness

It is well settled that in order to establish a prima facie case for obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, without reference to the disclosure of this application.

Applicant submits that the above described deficiencies of the primary reference Wang are not remedied by the proposed combination with the teaching of the references Ramaswamy and or McGregor, et al. The combined references do not therefore

support a prima-facie case of obviousness. The modification of the teachings of Wang, Ramaswamy or McGregor, in order to obtain the invention, as described in the claims submitted herein, would not have been obvious to one skilled in the art.

The above arguments apply equally to the rejected dependent claims.

For all of the above reasons, it is respectfully submitted that all of the claims now present in the application are novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



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July 18, 2006

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